

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Antonio V. Falcon (CRD No. 5615176),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013035252902

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From April through July 2014, Respondent Antonio V. Falcon (“Respondent” or “Falcon”) failed to appear four times for on-the-record interviews noticed pursuant to FINRA Rule 8210. Falcon therefore violated FINRA Rules 8210 and 2010.

JURISDICTION

2. Falcon first became registered with FINRA as an Investment Company and Variable Contracts Products Representative (IR) through a member firm on February 5, 2009, He was associated with that firm through September 27, 2010. From January 14, 2011 through October 30, 2012, he was registered as an Investment Company and Variable Contracts Products Representative (IR) through NY Life Securities LLC (“NY Life” or the “Firm”) (BD No. 5167).

3. On November 29, 2012, NY Life filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) reporting Falcon’s termination as of October 30, 2012. The Form U5 provided, among other things, that “Falcon was terminated after admitting that he violated the company’s medical underwriting procedures by providing fluid samples for three clients.”
4. Falcon has not been registered with FINRA or associated with a FINRA member firm since NY Life filed the Form U5 reporting his termination.
5. Although Falcon is no longer registered or associated with a FINRA member, he remains subject to FINRA’s jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Respondent’s registration with NY Life, namely, November 29, 2012, and (2) the Complaint charges him with failing to respond to FINRA requests to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member firm.

FIRST CAUSE OF ACTION

FAILURE TO COOPERATE WITH A FINRA INVESTIGATION

VIOLATION OF FINRA RULES 8210 AND 2010

6. The Department re-alleges and incorporates by reference paragraphs 1 through 5 above.
7. On or about December 6, 2013, the staff of FINRA’s Member Regulation Department (the “Staff”) began an investigation of Falcon and the circumstances leading to his termination by NY Life, including the allegations that Falcon violated his employer’s

medical underwriting procedures by providing his own fluid samples instead of those from his customers (the “Investigation”).

8. On December 6, 2013, as part of the Investigation, the Staff sent a letter to Falcon requesting documents and information relating to the Investigation (the “Request for Information”). The letter was sent to Falcon’s residential address, as reflected in the Central Registration Depository (CRD), in Granada Hills, CA (the “CRD Address”).
9. By letter dated January 20, 2014, Falcon responded to the Request for Information. In his response, under his signature line, as well as on the return envelope, Falcon provided another mailing address in Granada Hills, CA (the “Forwarding Address”).

FINRA’S FIRST REQUEST FOR TESTIMONY

10. On April 21, 2014, the Staff sent a letter to Falcon requesting that he appear for an on-the-record interview at FINRA’s office located at 200 Liberty Street, New York, NY 10281 on May 20, 2014 at 10:00 AM (the “First Request for Testimony”).
11. Pursuant to FINRA Rule 8210, the First Request for Testimony was sent via certified mail, return receipt requested, and first class mail to the CRD Address.
12. The First Request for Testimony sent via certified mail, return receipt requested, was returned by the U.S. Postal Service and the envelope was marked as “Return to Sender, No Such Street, Unable to Forward.” The Domestic Return Receipt card for the certified mailing was returned by the U.S. Postal Service unsigned.
13. The First Request for Testimony sent via first class mail was not returned by the U.S. Postal Service.
14. Falcon did not appear for his on-the-record interview on May 20, 2014.

FINRA'S SECOND REQUEST FOR TESTIMONY

15. On May 21, 2014, the staff sent a second letter to Falcon requesting that he appear for an on-the-record interview at FINRA's office located One World Financial Center, 200 Liberty Street, New York, NY 10281 on June 10, 2014 at 10:00 AM (the "Second Request for Testimony").
16. Pursuant to FINRA Rule 8210, the Second Request for Testimony was sent via certified mail, return receipt requested, and first class mail to the CRD Address.
17. The Second Request for Testimony sent via certified mail, return receipt requested, was returned by the U.S. Postal Service and the envelope was marked as "Return to Sender, Unclaimed, Unable to Forward." The Domestic Return Receipt card for the certified mailing was returned by the U.S. Postal Service unsigned.
18. The Second Request for Testimony sent via first class mail was not returned by the U.S. Postal Service.
19. Falcon did not appear for his on-the-record interview on June 10, 2014.

FINRA'S THIRD REQUEST FOR TESTIMONY

20. On June 12, 2014, the staff sent a third letter to Falcon requesting that he appear for an on-the-record interview at FINRA's office located One World Financial Center, 200 Liberty Street, New York, NY 10281 on July 1, 2014 at 10:00 AM (the "Third Request for Testimony").
21. Pursuant to FINRA Rule 8210, the Third Request for Testimony was sent via certified mail, return receipt requested, and first class mail to the CRD Address and the Forwarding Address.

22. The Third Request for Testimony sent to the CRD Address and the Forwarding Address via certified mail, return receipt requested, was returned by the U.S. Postal Service and the envelopes were marked as “Return to Sender, Unclaimed, Unable to Forward.” The Domestic Return Receipt cards for the certified mailings were returned by the U.S. Postal Service unsigned.

23. The Third Request for Testimony sent to the CRD Address and the Forwarding Address via first class mail was not returned by the U.S. Postal Service.

24. Falcon did not appear for his on-the-record interview on July 1, 2014.

FINRA’S FOURTH REQUEST FOR TESTIMONY

25. On July 8, 2014, the staff sent a fourth letter to Falcon requesting that he appear for an on-the-record interview at FINRA’s office located One World Financial Center, 200 Liberty Street, New York, NY 10281 on July 16, 2014 at 10:00 AM (the “Fourth Request for Testimony”).

26. Pursuant to FINRA Rule 8210, the Fourth Request for Testimony was sent via certified mail, return receipt requested, and first class mail to the CRD Address and the Forwarding Address.

27. The Fourth Request for Testimony sent to the CRD Address via certified mail, return receipt requested, was returned by the U.S. Postal Service and the envelope was marked as “Return to Sender, Insufficient Address, Unable to Forward.” The Domestic Return Receipt card for the certified mailing was not returned.

28. The Fourth Request for Testimony sent to the CRD Address via first class mail was not returned by the U.S. Postal Service.

29. The Fourth Request for Testimony sent to the Forwarding Address via certified mail, return receipt requested, and first class mail, was not returned.

30. Falcon did not appear for his on-the-record interview on July 16, 2014.

FALCONE'S CONTINUING FAILURE TO COOPERATE

31. To date, Falcon failed to respond to and comply with the Staff's four requests to appear for on-the-record testimony.

32. By reason of the foregoing, Falcon violated FINRA Rules 8210 and 2010.

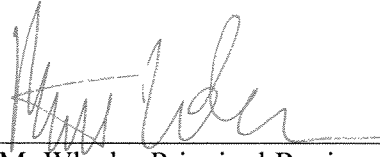
RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Falcon committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that Falcon bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;

FINRA DEPARTMENT OF ENFORCEMENT

Date: October 1, 2014



Artur M. Wlazlo, Principal Regional Counsel
FINRA Department of Enforcement
Two Jericho Plaza
Jericho, NY 11753
Phone: (516) 949-4254
Fax: (516) 949-4201
e-mail: artur.wlazlo@finra.org

Lara Thyagarajan, Chief Counsel
FINRA Department of Enforcement
Brookfield Place
200 Liberty Street
New York, NY 10281
Phone: (212) 858-4176
Fax: (202) 721-6574
e-mail: lara.thyagarajan@finra.org